

JAN 20 '00 13:54 FR PROSKAUER ROSE LLP 212 969 2900 TO 5552427141543699 P.20

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

277 (LAK)(RLE)

UNIVERSAL CITY STUDIOS, INC.;)	00 Civ. _____
PARAMOUNT PICTURES CORPORATION;)	
METRO-GOLDWYN-MAYER STUDIOS INC.;)	
TRISTAR PICTURES, INC.; COLUMBIA)	
PICTURES INDUSTRIES, INC.; TIME WARNER)	
ENTERTAINMENT CO., L.P.; DISNEY)	
ENTERPRISES, INC.; AND TWENTIETH)	DECLARATION OF
CENTURY FOX FILM CORPORATION,)	MARSHA KING
Plaintiffs.		
v.)	
SHAWN C. REIMERDES, ERIC CORLEY A/K/A)	
"EMMANUEL GOLDSTEIN" AND ROMAN)	
KAZAN.)	
Defendants.		

KING
1
I.D.
BQ
00. 7-10-00

JAN 20 '00 13:55 FR PROSKAUER ROSE LLP0 212 969 2900 TO 5552427141543699 P.21

Marsha King declares, under penalty of perjury, as follows:

1. I am an Executive Vice President of Warner Home Video, a division of Plaintiff Time Warner Entertainer Co., LP. I make this declaration in further support of Plaintiffs' Motion for a Preliminary Injunction, based upon my own personal knowledge.
2. I first learned of the existence of the DeCSS decryption utility when, in or around late 1999, it became available on the Internet via channels devoted to computer hacking. To the best of my knowledge, at that time DeCSS was confined to a relatively small community of highly technical Internet sites devoted to hackers and other activists on the Internet.
3. I understand that no encryption system is entirely "hack-proof." Also, given the widespread availability of DVD ROM players and discs, it seemed inevitable that the CSS encryption system would eventually be compromised. That is why Congress tried to inhibit this process by creating "anti-hacking" prohibitions in United States copyright law.
4. When my company, along with the other major motion picture studios, decided to embrace DVD technology and to begin releasing our films on DVDs, we were relying on several conditions working together to provide a safety net for protection of our copyright interests in movies released on DVD:
 - 1) the CSS encryption system;
 - 2) a licensing scheme for the CSS technology which would limit the copying of such movies by licensed decryption and playback equipment and other devices;
 - 3) enactment in the United States of "anti-circumvention" laws in accordance with the World Intellectual Property Organization Treaties on copyright, which

JAN 20 '08 13:55 FR PROSKAUER ROSE LLP 212 969 2900 TO 5552427141543699 P.22

obligated member countries, including the United States, to provide legal protection for encryption and other technological measures put in place by copyright holders to protect their works in the digital environment. This resulted in the passage of the Digital Millennium Copyright Act ("DMCA"); and

4) court enforcement of the anti-circumvention provisions of the DMCA.

5. It is my understanding that once the member companies of the MPAA became aware of the hack, the MPAA took immediate action to contact service providers in order to have the hack removed from websites.

6. Immediate and irreparable injury to my company will result if the Court fails to enforce the DMCA. First, if unbridled posting (offering) of the decryption device (DeCSS) continues, CSS will be lost as a safety system. An immediate injunction will halt its spread and advise the Internet community that offering, trafficking, etc., in DeCSS is illegal and the federal courts will act swiftly to prevent its distribution. My company currently believes that, with Court protection, the CSS technology will continue to be viable.

7. Second, our company has no current options other than continuing to release movies on the DVD format, even though its encryption system has been compromised. Any new encryption system will obsolete the current player population, an unacceptable solution for consumers. Additionally, our company has made substantial investments in this format, as have others in the industry, and consumer adoption and acceptance of DVD as a preferred home video format is already very significant and growing rapidly. Thus, even though each new release we make on the DVD format subjects that movie to the risk of multiple copying and electronic transmission without authority of the copyright owner,

JAN 20 '00 13:55 FR PROSKAUER ROSE LLP0 212 969 2900 TO 5552427141543699 P. 23

our company cannot realistically abandon the format at this time.

8. Right now there is no readily available and inexpensive means for the average consumer to copy DVD movies in the digital domain. Most average computer users would be forced to store unauthorized copies of DVD movies on their hard drives, which would consume a significant amount of disk space. However, there are devices and equipment available to those with the technical interest to do so, to make and store multiple unauthorized copies of DVD movies in digital form. Moreover, the industry predicts that in the near future "recordable" DVD will be available at the mass consumer level in a form that enables digital DVD copying at a cost which could be equal to or below the cost of a prerecorded DVD disc. While the average consumer today may have no incentive to engage in wholesale digital copying of DVD films, the technology is evolving rapidly and what is currently possible among those in the technical or fringe elements of the community will soon be realistic for the average person.
9. Currently, DeCSS still seems to be confined to the more technical and "hacker oriented" sites. However, there are a number of individuals who have been encouraged by these sites to "mirror" them in the belief that their activity is lawful or an appropriate act of civil disobedience. I join in respectfully requesting this Court to issue an injunction to bring an immediate halt to the proliferation of this device, particularly because people have started making it available on the Internet in the mistaken belief that it is "legal," when it is our view that DeCSS is an unlawful circumvention device within the meaning of the applicable laws. Once such a ruling is made by a court, I believe that the majority of law abiding citizens will comply without the necessity of further action, as will Internet service providers who would look to the Court for direction before taking action.

JAN 20 '00 13:56 FR PROSKALER ROSE LLP0 212 969 2900 TO 5552427141543699 P.24

to remove DeCSS from their networks or systems.

10. Without an injunction, DeCSS will proliferate and may be adopted within the mainstream of computer users of this country. This will most certainly impair CSS and open the floodgates to widespread, commercial copying of copyrighted films.

Dated: January 19, 2000

Donald King